

Exhibit 3

1 (PROCEEDINGS held in open court before The Honorable
2 Rukhsanah L. Singh, United States Magistrate Judge, at
3 2:36 p.m. as follows:)

4 THE COURTROOM DEPUTY: All rise.

5 THE COURT: Good afternoon. You may be seated.

6 All right. So is it Monday, or is it Monday? My
7 goodness. Whoever was on the train, that sounds like a fun
8 ride.

9 (Laughter.)

10 THE COURT: All right. We are on the record in the
11 matter of In Re Insulin Pricing Litigation, bearing Docket
12 No. 23-3080. May I have appearances of counsel, please,
13 starting with the plaintiffs.

14 MR. BUCHANAN: Good morning -- good afternoon, Your
15 Honor. Dave Buchanan, Seeger Weiss, for the Self-Funded Payer
16 Track.

17 MS. CICALA: Good afternoon, Your Honor. Joanne
18 Cicala from the Cicala Law Firm for the State Attorney General
19 Track.

20 MS. ELLIS: Good morning, Your Honor. Tanya Ellis,
21 here on behalf of the State Attorney General Track.

22 THE COURT: Thank you.

23 MR. SCHORK: Good afternoon, Your Honor. Erich
24 Schork on behalf of the Direct Purchaser Class Track.

25 THE COURT: Okay.

1 in a number of cases by that point in time which will narrow
2 discovery in later cases on both sides, probably. We'll have a
3 greater understanding of what's in play and what's out of play
4 as dispositive motions are ruled on, as *Daubert* motions are
5 ruled on. And that is very efficient. And I think that's why
6 it's done that way.

7 And, frankly, this Court has an amazing track record
8 of generating successful results with that type of framework.
9 And we submit that's the appropriate framework for this case.

10 THE COURT: Okay. You're getting a note.

11 MS. PATTERSON: Respectfully, Your Honor, again, this
12 is not a products liability MDL. If 18 months from now we have
13 one ruling or one trial on Albany County, for example, that
14 has -- at this point we don't know what sort of bearing it
15 might have on Lake County or Illinois or any of the other
16 cases. We need discovery to figure that out.

17 And to be clear, the defendants' proposal is not
18 everything all at once. It's, let's start -- let's start
19 small. Let's start with the written and document discovery for
20 the cases so we can figure out, okay, what do we have before
21 us, whether we do that via a plaintiff fact sheet or master
22 discovery, as we discussed, you know, it may just be a label.

23 But what we want is for it to be meaningful so that
24 we can move on to that next stage. Even within our proposal
25 itself, we propose that before we move to depositions, we think

1 about, okay, now that we have document discovery, can we figure
2 out, if appropriate, whether we should stage some of that
3 deposition discovery.

4 This approach is, we would say, most efficient
5 because it allows us to take it step by step and to look at the
6 cases on a meaningful -- in a meaningful way and determine
7 which of these cases should move forward during this one phase.

8 Because as Mr. Buchanan stated, as Your Honor makes
9 decisions and as Judge Martinotti makes decisions, some of the
10 cases may fall away. But if we only select ten discovery
11 bellwether cases, if Judge Martinotti makes a decision, say, on
12 statute of limitations on the motions to dismiss and half of
13 those cases are impacted by that statute of limitations case,
14 then we only have five cases left in that discovery bellwether
15 pool for us to move forward then ostensibly to trial.

16 Whereas in our approach, we are able to develop the
17 facts and move that part forward in the phase, and then once we
18 get to that stage, we can look and see what do we have left?
19 Do we have any rulings from Judge Martinotti? Do we have
20 rulings from you? Do we have --

21 THE COURT: Let's hope not.

22 (Laughter.)

23 MS. PATTERSON: -- meaningful factual development
24 that allows us to figure out, okay, so what should we do next,
25 right? And so that's why defendants proposed it in this way.

1 It allows us to not set anything in stone right now as to what
2 the deadlines are for kind of the subsequent cases, for the
3 class cases versus the non-class cases, for this track or that
4 track. It allows us to take the step right in front of us,
5 develop the discovery on the written record, on document
6 discovery so that we can figure out what the next appropriate
7 step should be.

8 THE COURT: Okay. Yeah. Sure.

9 MS. CICALA: Your Honor, respectfully, that is
10 everything all at once for one year at defendants' pace. It's
11 just pure written discovery. It's not meaningful progress,
12 whereas what we're proposing -- and I don't want to start
13 rehearsing what we've said already to the Court and what's in
14 our papers -- is a more efficient way to get the defendants if
15 not 100 percent of the information they may ultimately want in
16 the case, a substantial amount that allows the parties to take
17 the next step and addresses Judge Martinotti's objectives of
18 moving the case forward at a reasonable clip, which is what
19 everybody, I believe, is seeking to do here on the plaintiffs'
20 side at least.

21 THE COURT: Okay. Not Amtrak. I couldn't help
22 myself.

23 Okay. So this is what we're going to do.

24 I am -- you're going to love this -- directing you to
25 meet and confer as to what a plaintiff fact sheet and

1 stipulated document request to go out to each individual
2 plaintiff will look like. Report back to me in two weeks as to
3 the results of that meet-and-confer.

4 MR. BUCHANAN: Thank you, Your Honor.

5 THE COURT: Okay.

6 MS. CICALA: Your Honor, if I may. May we have a
7 greenlight to proceed with third-party discovery in the
8 interim?

9 THE COURT: So, good question on that.

10 I did see the defendants have opposed or are
11 requesting a pause on nonparty discovery. What was the reason
12 for that?

13 MS. PATTERSON: Yes, Your Honor. So during our last
14 meet-and-confer, we asked the plaintiffs what was the
15 difference between case-specific discovery versus common
16 discovery such that we could do, you know, we can actually ask
17 third parties for, for that discovery.

18 THE COURT: Uh-huh.

19 MS. PATTERSON: And plaintiffs weren't able to give
20 us a real understanding. For example, if we asked a
21 third-party consultant, you know, what contracts or agreements
22 did you have with X county, whether that is case specific or
23 whether that's common discovery. Under what we understood
24 plaintiffs to be saying, that's case-specific discovery, which
25 seemed a little bit, you know, again, this gets into the issue,

1 you know, are we arguing about what is case specific versus
2 common discovery.

3 THE COURT: Uh-huh.

4 MS. PATTERSON: And so we wanted time to be able to
5 resolve with the plaintiffs, you know, what is permissible in
6 third-party discovery.

7 THE COURT: Okay.

8 MS. CICALA: At the risk of getting too far into the
9 weeds on this, Your Honor, plaintiffs are agnostic as to
10 whether it's case specific or common from the defendant in
11 terms of the discovery -- the third-party discovery the
12 defendants may want to serve.

13 The states know what third-party discovery they would
14 like to serve and would like to get going on that while the
15 parties are engaging in the discussions with regard to the
16 plaintiff fact sheets.

17 THE COURT: Uh-huh.

18 MS. CICALA: So a greenlight as to that would be
19 helpful to the states. It would allow us to make progress on
20 that point. If the defendants aren't ready with their
21 greenlight, then perhaps that could be staggered. We're not
22 looking for more time for plaintiffs on third-party discovery.
23 We're just trying to get going, you know.

24 THE COURT: Uh-huh. Okay.

25 MS. CICALA: The defendants' greenlight could start

1 later. It could run for the same amount of time when they're
2 ready to commence. But the states are ready to commence
3 third-party discovery now. That would be very helpful in the
4 discrete area that could move things forward while we negotiate
5 these other points.

6 THE COURT: Okay. Anything else?

7 MS. PATTERSON: Your Honor, we can move third-party
8 discovery forward on all cases regardless of whether it's
9 discovery bellwether or not or common versus specific. I think
10 that is fine for us, although I don't want to speak for anybody
11 else.

12 MR. SCHERR: Well, Your Honor, if I may, J.R. Scherr
13 for Express Scripts.

14 Ms. Cicala actually points out a fair point, and it
15 harks to a point that Ms. Barnaby made about mutuality. We're
16 dealing with a grouping of -- let's just take the what's called
17 the Self-funded Payer Class, the counties and the cities.
18 These are municipalities that have contracted with pharmacy
19 benefit managers for pharmacy benefits. They've done it
20 typically, if not entirely, through an RFP process where
21 they've put out a request, they got solicitations, they worked
22 with their third-party consultants to evaluate what was
23 submitted and then make a decision about whom to hire.

24 As defendants, if we're going to serve requests on
25 those third-party consultants to determine what they said, what

1 your expectations of what it would look like and plaintiffs'
2 expectations of what it would look like and what additional
3 information you might need. So you don't necessarily have to
4 submit a proposed form in 15 days, but have this conversation
5 and report back on where you are.

6 MR. MOORMAN: That's exactly what we envisioned.
7 Thank you, Your Honor.

8 THE COURT: Yeah. Okay. Does that help?

9 MS. CICALA: Yes. Thank you, Your Honor.

10 THE COURT: All right. Wonderful. Then we are
11 adjourned. And I thank you for your time and your appearance
12 here today.

13 Thank you, Mr. Kurz.

14 THE COURTROOM DEPUTY: All rise.

15 THE COURT REPORTER: My pleasure, Your Honor.

16 (Proceedings concluded at 4:25 p.m.)

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18 **FEDERAL OFFICIAL COURT REPORTER'S CERTIFICATE**
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20 I certify that the foregoing is a correct transcript
21 from the record of proceedings in the above-entitled matter.
22

23 /S/John J. Kurz, RDR-RMR-CRR-CRC

May 14, 2024

24 Court Reporter/Transcriber
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